IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R. No.83 of 1992
Date of decision: September 07 , 2006

The Commissioner of Income Tax-I, Jalandhar

Applicant
Through:
Dr.N.L.Sharda, Advocate

v.

M/s Amar Jyoti Soap & Rice Mills Jalandhar

Respondent
Through
Mr.Akshay Bhan, Advocate

CORAM:

Hon'ble Mr.Justice Adarsh Kumar Goel
Hon'ble Mr. Justice Rajesh Bindal

1. Whether Reporters of local papers may be allowed to see the judgment ?

2. To be referred to the Reporters or not ?

3. Whether the judgment should be reported in the Digest?

Rajesh Bindal, J.

Following question of law has been referred for the opinion of this Court by the Income-tax Appellate Tribunal, Amritsar Bench, Amritsar (for short, `the Tribunal') in I.T.A.No.1449(ASR)/1989, for the assessment year 1988-89:

> "Whether on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal is right in law in upholding the order of the Deputy Commissioner of Income-tax (Appeals) allowing expenses of Rs. 61,223/- disallowed by the Assessing Officer ?"

The assessee filed return declaring his income at Rs. 28,824/- on 12.7.1988. The main line of business of the assessee was rice husking. The Assessing Officer disallowed the expenses considering that no business was carried out by the assessee during the year in question and the same was closed.

The Deputy Commissioner of Income-tax (Appeals) held that during the assessment year 1987-88, the assessee received a sum of Rs. 12,797/- from F.C.I. towards milling charges. It was also noticed that a sum of Rs. 70,946.80 was received as milling charges during the assessment year in question from District Food and Supplies Controller, Jalandhar, as such the business was continuing and accordingly, order passed by the Assessing Officer was reversed.

The Tribunal upheld the order passed by the Deputy Commissioner of Income-tax (Appeals) and dismissed the appeal filed by the Revenue.

We have heard learned counsel for the parties and perused the record.

On a consideration of the facts of the present case , as found by the authorities, it is evident that even upto the previous assessment year 1986-87, whatever income was earned by the assessee was being treated as business income and the expenses of the kind, which were sought to be disallowed during the year in question, were being allowed as deduction and the income was arrived at accordingly. No special reason has been shown by the Revenue to take a different view during the assessment year in question.

We do not find any reason to differ with the view taken by the Tribunal and accordingly, answer the question against the Revenue and in favour of the assessee.

(Rajesh Bindal)
Judge

(Adarsh Kumar Goel)
Judge

September 07 , 2006
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